**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 3159 OF 2006.**

State of Maharashtra & anr. ... Appellants.
Versus.
Dattyu Dnyanoba Jadhav-Sarnaik & anr. ... Respondents.

Shri A.R.Patil, A.G.P. for the Appellants.

Shri Prabhu i/by Shri A.V.Bandewadekar for the Respondents Nos.1 and 2.

**CORAM : ABHAY S.OKA, J.**

**DATED : 29th January, 2007.**

**P.C.:**

1. Heard the learned Assistant Government Pleader for the Appellants and the learned Advocate appearing for the Respondents. The challenge in the First Appeal is to the Judgment and Award dated 2nd May 1986 passed under section 18 of the Land Acquisition Act, 1894.

2. My attention has been invited to the Judgment and Order dated 12th February 1987 passed by a Division Bench of this Court in First Appeal No.74 of 1987. It is not in dispute that the decision of the Division Bench is in respect of a land which was acquired along with the land subject matter of the present Appeal under the notification of the same date.

3. A perusal of the impugned Judgment shows that the Award under section 11 of the said Act of 1894 was made on 6th October 1983. The claim made by the

Respondents in the Reference under section 18 of the said Act of 1894 was for an amount of compensation at the rate of Rs.9.50 per sq.ft. to Rs.10/- per sq.ft. The learned trial Judge has relied upon a transaction of sale at Exh.18 where the sale was effected in the year 1976 in respect of a similarly situated land at market value of Rs.9.50 per sq.ft. In the present case, the Land Acquisition Officer had awarded market value at the rate of Rs.2.80 per sq.ft. The learned trial Judge found that the transaction at Exh.18 was in respect of a comparable land. The learned trial Judge held that the market value of the acquired land was Rs.7/- per sq.ft. The learned trial Judge made a further deduction of 10% on account of development charges. The learned trial Judge did not grant enhancement in respect of an area of 3 gunthas as it was required to be left open as a passage.

4. In my view the compensation fixed by the learned trial Judge is just and proper. In view of this position and in view of the order of the Division Bench referred to above, no case is made out for interference. The Appeal is dismissed. The Appellant is directed to pay costs of this Appeal to the Respondents.

**Judge.**